

**Adverse Action Procedures for Career SES members  
Who Fail to Meet Performance Requirements**

**Coverage:** Career SES members who have completed the probationary period, if required, and who are not re-employed annuitants. Removal initiated as a result of an annual performance appraisal is not appealable to MSPB. Removal action based upon non-recertification is appealable to MSPB.

**I. Removal Due to Failure to Meet Annual Performance Requirements**

- o One Unsatisfactory rating requires reassignment or transfer within the SES, or removal from the SES.
- o Two Unsatisfactory ratings within any period of five consecutive years require removal from the SES.
- o Two less than Fully Successful ratings in any period of three consecutive years require removal from the SES.
- (a) Notice in writing is required at least 30 days before the effective date of the removal action. The notice shall include:
  - o The basis for the action;
  - o The executive's placement rights;
  - o The executive's right to an informal MSPB hearing;
  - o The effective date of removal; and
  - o (If applicable) the appointee's eligibility for immediate discontinued service retirement in lieu of placement rights.
- (b) Fallback position to GS-15 will be identified.
- (c) Informal hearing before MSPB available at employee's request at least 15 days before the effective date of removal.
- (d) Removal for less than fully successful performance can not be made effective within 120 days after the appointment of a new Secretary of Commerce.